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APP

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UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

WILLIAM A. GAYLER

Debtor.

Case No.: BK-S-09-31603-MKN
Chapter 7

Hearing Date: June 26, 2014
Hearing Time: 11:00 a.m.
Place: Foley Federal Bldg.
300 Las Vegas Blvd. S.
Las Vegas, NV 89101

Hon. Mike K. Nakagawa

**FIRST AND FINAL APPLICATION FOR ALLOWANCE OF ATTORNEYS' FEES
(\$66,025.00) AND REIMBURSEMENT OF EXPENSES (\$8,587.19) OF HOWARD KIM &
ASSOCIATES, LLC AS CHAPTER 7 ADMINISTRATIVE EXPENSE AND REQUEST
FOR PAYMENT**

The law firm of Howard Kim & Associates (the "Kim Firm"), counsel for David A. Rosenberg, former Chapter 7 Trustee ("Former Trustee") for the bankruptcy estate of William A. Gayler ("Gayler"), respectfully submits its First and Final Application for Allowance of Attorneys' Fees (\$66,025.00) and Reimbursement of Expenses (\$8,587.19) of Howard Kim & Associates, LLC as Chapter 7 Administrative Expense and Request for Payment (the "Application") pursuant to 11 U.S.C. § 330 and Fed. R. Bankr. P. 2016. This Application seeks compensation for professional services performed and for reimbursement of actual and necessary expenses incurred.

This Application is made and based on the attached points and authorities, the declarations of David A. Rosenberg and Howard C. Kim, submitted concurrently herewith, the papers and pleadings on file in the Chapter 7 Case, judicial notice of which is respectfully requested, and any argument of counsel entertained by the Court at the hearing on the Application.

I.

SUMMARY OF PROFESSIONAL COMPENSATION

AND REIMBURSEMENT OF EXPENSES REQUESTED

Fees Previously Requested	\$0.00
Fees Previously Awarded	\$0.00
Expenses Previously Requested	\$0.00
Expenses Previously Awarded	\$0.00
Retainer	\$0.00
Drawn on Retainer (Post-Petition)	\$0.00
Remaining Retainer	\$0.00
Current Application Fees Requested	\$66,025.00
Current Application Expenses Requested	\$8,587.19
Total Fees and Expenses	\$74,612.19 ¹
Total Billable Hours	188.7
Blended Hourly Rate	\$350.00

SUMMARY OF PROFESSIONALS

PROFESSIONAL	YEAR ADMITTED TO PRACTICE	HOURLY RATE	HOURS	TOTAL FEE
HOWARD C. KIM	2006	\$350.00	32.5	\$11,375.00
JACQUELINE A. GILBERT	2007	\$350.00	23.3 ²	\$8,155.00

¹ A total of \$490,071.32 was transferred to the newly appointed trustee in the case. .

² While Jacqueline A. Gilbert, Esq. expended a total of 26.0 hours on this case, she is only billing for 23.3 hours (thus saving the estate \$945.00).

JESSE PANOFF	2008	\$350.00	0.0 ³	\$0.00
KATHERINE C.S. CARSTENSEN	2007	\$300.00	132.8 ⁴	\$46,480.00
SARAH FELTS	PARALEGAL	\$150.00	0.1	\$15.00

II.

INTRODUCTION

1. This Application has been prepared in accordance with the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330 adopted by the Executive Office for United States Trustees, as referenced by the Region 17 United States Trustee Guidelines, and with Fed. R. Bankr. P. 2016 and LR 2016.

2. This is the first and final fee application for allowance of compensation and reimbursement of expenses filed by the Kim Firm in the above-captioned Chapter 7 case. This Application covers the period from February 4, 2013 (the “Retention Date”) through May 16, 2014 (the “Compensation Period”).

3. Pursuant to this Application, the Kim Firm requests compensation of \$66,025.00 for attorneys’ fees and \$8,587.19 for reimbursement of expenses in connection with services provided during the Compensation Period, plus Application presentation costs not to exceed \$500.00. During the Compensation Period, the Kim Firm’s attorneys and paraprofessionals expended a total of 188.7 hours for which compensation is sought.

4. In addition, the Kim Firm expended an additional 64.3 hours during the Compensation Period, for a total of \$22,505.00, but in exercising its billing judgment, the Kim Firm is not charging for that time.

5. During the Compensation Period, the Kim Firm received no payments and no promises of payment from any source for services rendered or to be rendered in any capacity whatsoever in connection with the matters covered by this Application, except as disclosed in

³ While Jesse Panoff, Esq. expended a total of 4.3 hours on this case, he is not billing for any of his time (thus saving the estate \$1,505.00).

⁴ While Katherine C.S. Carstensen, Esq., expended a total of 190.1 hours on this case, she is only billing for 132.8 hours (thus saving the estate \$20,055.00).

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1 and requested in this Application. There is no agreement or understanding between the Kim
2 Firm and any other person, other than members of the firm, for the sharing of compensation to be
3 received for services rendered in this Chapter 7 case.

4 6. **Exhibit "1"** attached hereto provides a summary of professional services
5 rendered, which identifies the professionals who rendered services during the Compensation
6 Period, the hours expended by each professional, and each professional's rate of compensation.

7 7. **Exhibit "1"** also identifies and provides chronologically for the Compensation
8 Period: (a) the dates on which the Kim Firm performed professional services for the Trustee; (b)
9 each person performing such services; (c) the amount of time spent by each person on each day
10 that the person performed such services (charged in units of one-tenth [0.1] of an hour); and (d)
11 specific daily descriptions of the services performed by each person. These time entries are
12 grouped by task category.

13 8. **Exhibit "1"** also contains a detailed statement of actual and necessary out-of-
14 pocket expenses incurred and paid by the Kim Firm during the Compensation Period in its
15 representation of the Trustee.

16 **III.**

17 **JURISDICTION AND VENUE**

18 9. The Court has jurisdiction over this Application as a core proceeding pursuant to
19 28 U.S.C. §157 (b)(2)(A).

20 10. Venue for Debtor's Chapter 7 case in the District is proper pursuant to 28 U.S.C.
21 §§ 1408 and 1409. The basis for the relief herein include, but are not necessarily limited to, 11
22 U.S.C. § 330 and Fed. R. Bankr. P. 2016.

23 **IV.**

24 **STATEMENT OF FACTS**

25 **A. Gayler's Bankruptcy Case Prior to the Kim Firm's Employment**

26 11. On November 16, 2009, The Pius Reiger Family Ltd. Partnership, John D.
27 O'Brien Profit Sharing Plan, and Addison Glass, Inc. filed an involuntary petition for relief
28 under Chapter 7 of the Bankruptcy Code on behalf of Gayler [Dkt. No. 1].

12. On or around March 29, 2010, James F. Lisowski (“Lisowski”) was appointed as Chapter 7 Trustee in this case.

13. On June 28, 2010, Gayler filed a voluntary amended petition (“Petition”) for relief under Chapter 7 of the Bankruptcy Code [Dkt. No. 105].

14. On April 14, 2011, Lisowski filed an Application to Employ Marquis Aurbach Coffing (“MAC”) as Special Counsel Under Contingency Fee Basis [Dkt. No. 192]. As MAC failed to disclose its financial connections with the Debtor in violation of FRBP 2014(a)⁵, this Application was granted by the Court on May 23, 2011 [Dkt. No. 205].

B. Former Trustee is Appointed and the Kim Firm is Hired as General Counsel

15. On December 12, 2012, Former Trustee David A. Rosenberg was appointed as successor trustee in Gayler’s bankruptcy case, replacing Lisowski [Dkt. No. 482].

16. On February 14, 2013, Former Trustee and the Kim Firm entered into a representation agreement (“Agreement”), wherein, among other things, the Kim Firm agreed “[t]o review and counsel regarding any issues arising from potential conflicts between special counsel and the estate.” *See Agreement*, attached hereto as “**Exhibit 2**”, at pg. 2.

17. On February 19, 2013, Former Trustee David A. Rosenberg filed a Motion to Employ Howard Kim & Associates and Substitution of General Counsel Nunc Pro Tunc as of February 4, 2013 (“Motion to Employ”) [Dkt. No. 488]. In the Motion to Employ, the Former Trustee noted the potential conflicts involved in MAC’s dual representation and sought to hire the Kim Firm “[t]o review and counsel regarding any issues arising from potential conflicts between special counsel and the estate[.]” *Id.* at 3:26-27. Additionally, in the Motion to Employ, the Former Trustee specifically pointed out that the Kim Firm was general counsel in the CH Angelus II, LLC (“Angelus II”) bankruptcy case. *Id.* at 4:2-5.

18. After notice and a hearing, with no objections filed, the Former Trustee’s Motion to Employ was granted by this Court on March 15, 2013 [Dkt. No. 500].

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⁵ *See Memorandum Decision* [Dkt. No. 590] at 42:4-15.

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19. After several discussions, including the February 4, 2013 meeting, with the Former Trustee and Howard C. Kim (“Kim”) of the Kim Firm regarding MAC’s dual representation, MAC agreed to withdraw as the Former Trustee’s special counsel [Dkt. No. 507]. MAC’s Motion to Withdraw was granted by the Court on June 10, 2013 [Dkt. No. 513].

20. MAC also agreed not to file an application for compensation.

21. At the time MAC withdrew as counsel for the Former Trustee, the Former Trustee believed MAC would also be withdrawing as counsel for the MAC Creditors,⁶ due to the conflicts involved in this case.

C. Motion to Approve Settlement Agreement and the Motion to Disqualify

22. On July 3, 2013, the Former Trustee filed a Motion to Approve Settlement Agreement between the Trustee, Gayler, Sylvester, Walter Loerwald aka Leroy Loerwald, Martin Barrett, and the Gayler Entities (“Motion to Approve Settlement Agreement”) [Dkt. Nos. 514 and 516].

23. After the Former Trustee realized that MAC had no intention of withdrawing as counsel for the MAC Creditors, but rather, intended to oppose the pending Motion to Approve Settlement Agreement, the Former Trustee believed he had no choice but to move to disqualify MAC to prevent MAC from using confidential information they obtained as counsel for Lisowski and the Former Trustee in opposing the settlement agreement they helped to draft.

24. On July 17, 2013, Former Trustee filed a Motion to Disqualify Counsel for John D. O’Brien Profit Sharing Plan and Counsel for Barry R. Moore and Janie Moore as Co-Trustees of the Bamm Living Trust Dated July 16, 2003, Groth, LLC, CH Pichon, LLC, and Harlan LLC Through Their Managing Member John O’Brien (“Motion to Disqualify”) [Dkt. No. 524].

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⁶ The MAC Creditors shall hereinafter refer to some or all of the following: John O’Brien, individually and as Trustee of the John D. O’Brien Profit Sharing Plan, Donald J. Campbell, J. Colby Williams, William Godfrey, Barry R. Moore, Janie Moore, Barry R. Moore and Janie Moore, Co-Trustees of the Bamm Living Trust Dated July 16, 2003, John Esposito, Lorraine Esposito, Mario P. Borini, Bianca Borini, Joseph Borini, and Eroom Holdings, LP.

25. On August 21, 2013, MAC filed its 42-page Opposition to the Motion to Disqualify (“MAC Opposition”) [Dkt. No. 543], wherein MAC asserted that it did not obtain any confidential information from Lisowski or the Former Trustee in its over two year representation of both parties⁷ and that no conflict existed to warrant its disqualification.⁸

26. On August 21, 2013, Zachariah Larson (“Larson”) filed his Opposition to the Motion to Disqualify (“Larson Opposition”) [Dkt. No. 547].

27. On August 28, 2013, the Former Trustee filed his Reply in Support of the Motion to Disqualify (“Reply”) [Dkt. No. 555], wherein the Former Trustee addressed many of MAC and Larson’s misstatements of fact regarding MAC’s employment as counsel in this bankruptcy case.

28. At the September 4, 2013 hearing, MAC, providing no notice to the Former Trustee, made an oral argument that the Former Trustee’s Reply should be stricken as it contained new arguments not set forth in the original Motion to Disqualify. As no advance notice was given to the Former Trustee regarding this Motion to Strike, the Former Trustee requested the hearing be continued so he could have the opportunity to file a response to this unanticipated motion. The Court granted the Former Trustee’s request and moved the hearing to September 19, 2013.

29. On September 11, 2013, the Former Trustee filed his Opposition to the Motion to Strike [Dkt. No. 574], arguing, among other things, that the Reply did not raise any new arguments but merely responded to arguments raised by MAC and Larson in their lengthy oppositions.

30. On September 16, 2013, the Court denied MAC’s Motion to Strike the Former Trustee’s Reply brief [Dkt. No. 578].

31. On September 19, 2013, after hearing arguments on the issue, the Court took the disqualification matter under advisement.

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⁷ See *MAC Opposition* [Dkt. No. 543] at 30:7-8.

⁸ *Id.* at 3:2.

32. On February 24, 2014, the Court issued a Memorandum Decision on the Former Trustee's Motion to Disqualify ("Memorandum Decision") [Dkt. No. 590]. In the Memorandum Decision, the Court made the following findings:

- a. "MAC's failure to disclose Aurbach's current financial connections with the Debtor was an egregious violation of FRBP 2014(a). The Aurbach Verified Statement accompanying the MAC Employment Application represented that Aurbach had no connections with the Debtor, his creditors or other parties in interest even though the Aurbach RAS Declaration revealed that Aurbach had a 20% interest in Sunset V. And even that was not Aurbach's only financial connection as he only disclosed in response to the Disqualification Motion that he also had an interest in Polyrus, LLC, Sunset 8, LLC, and possibly Sunset II, LLC (through Polyrus, LLC)." *See Memorandum Decision* [Dkt. No 590] at 42:4-11.
- b. The Court went on to note that "Hayes also had a prior financial connection to the Debtor through his investment in DA 1147, LLC, *see* note 42, *supra*, which was required to be disclosed under FRBP 2014(a)." *See Memorandum Decision* [Dkt. No 590] at 42, fn46.
- c. Regarding the Motion for Relief, the Court noted, "MAC's representation of Lisowski in connection with the Moore & Campbell RAS Motion clearly was beyond the scope of MAC's employment as special counsel." *See Memorandum Decision* [Dkt. No 590] at 12, fn19.
- d. The Court, noting the inherent conflict involved in MAC's dual representation of Lisowski and the MAC Creditors in the Motion for Relief, stated "MAC on behalf of Lisowski also filed a response even though MAC also had filed the actual motion, i.e. MAC represented the moving party as well as a responding party." *See Memorandum Decision* [Dkt. No. 590] at 12:5-7. The Court went on to state, "Parties who take both sides of a two-sided dispute are assured of prevailing in some fashion. *See Lodi v. Lodi*, 173 Cal.App.3d 628, 631-32, 219 Cal.Rptr. 116, 118-19 (3rd Dist. 1985) ("In the circumstances, this result cannot be unfair to Mr. Lodi. Although it is true that, as plaintiff and appellant, he loses, it is equally true that, as defendant and respondent, he wins! It is hard to imagine a more even handed application of justice. Truly, it would appear that Oreste Lodi is that rare litigant who is assured of both victory and defeat regardless of which side triumphs."). Unlike pro se parties who might not know better, however, attorneys have responsibilities to represent each of their clients' interests and the same attorney cannot represent both sides where there is an actual conflict." *See Memorandum Decision* [Dkt. No. 590] at 12, fn 18.
- e. "On the date MAC filed the response, Lisowski also was the Chapter 7 trustee in a separate case pending in this judicial district, In re Silver State Helicopters, LLC ("SSH"), Case No. 08-10926-MKN ("SSH Proceeding"). In connection with a dispute in that case, Lisowski represented that he underwent emergency back surgery in Colorado on or about November 14, 2012, was admitted to a hospital in Wisconsin for pneumonia through November 22, 2012, and flew to Las Vegas in a debilitated condition to meet with the Office of the U.S. Trustee ("OUST") from December 10 through 13, 2012. *See Reply to Opposition of the Acting United States Trustee's Office and Student Creditor's*

Objection to the Trustee's Final Report and Application for Compensation and Expenses at ¶¶ 17 through 21 (SSH Docket No. 2905); Declaration of James F. Lisowski, Sr. at ¶¶ 13 and 14 (SSH Docket No. 2905-2); Declaration of Julie A. Lisowski at ¶¶ 4 through 7 (SSH Docket No. 2906). MAC's representation of Lisowski in connection with the Moore & Campbell RAS Motion clearly was beyond the scope of MAC's employment as special counsel. Moreover, it is not clear how MAC could even communicate with Lisowski given his apparent medical condition. Noticeably absent from the record is a declaration from Lisowski attesting to his assent to the relief sought by the Moore & Campbell Parties." *See Memorandum Decision* [Dkt. No 590] at 12, fn19.

33. Despite these numerous unfavorable findings against MAC, the Court denied the Former Trustee's Motion to Disqualify on February 24, 2014 ("Disqualification Order") [Dkt. No. 591].

D. The Appeal of the Disqualification Order

34. After establishing a reasonable basis to do so,⁹ the Former Trustee directed the Kim Firm to appeal the Disqualification Order [Dkt. No. 596]. Given the possibility that the Disqualification Order could potentially be considered an interlocutory order, as opposed to a final order appealable in right, the Kim Firm also filed a Motion for Leave to Appeal [Dkt. No. 598], in an abundance of caution [Dkt. No. 598].

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⁹ The Supreme Court of Nevada and the federal courts appear to disagree on the test for substantial relatedness pursuant to Nevada Rule of Professional Conduct 1.9. *See Waid v. Eighth Judicial Dist. Court ex rel. Cnty. of Clark*, 121 Nev. 605, 610, 119 P.3d 1219, 1223 (2005) (to determine whether an attorney's prior and current matters are substantially related and the attorney has a disqualifying conflict of interest a court must "(1) make a factual determination concerning the scope of the former representation, (2) evaluate whether it is reasonable to infer that the confidential information allegedly given would have been given to a lawyer representing a client in those matters, and (3) determine whether that information is relevant to the issues raised in the present litigation."); *see also Nevada Yellow Cab Corp. v. Eighth Judicial Dist. Court ex rel. Cnty. of Clark*, 123 Nev. 44, 52, 152 P.3d 737, 742 (2007) (applying the same test for substantial relatedness as that set forth in *Waid*); compared with *Edwards v. 360 Commc'ns*, 189 F.R.D. 433, 438 (D. Nev. 1999) (applying a rebuttable presumption standard to the test for substantial relatedness under NRPC 1.9); *see also SHFL Entm't, Inc. v. DigiDeal Corp.*, 2:12-CV-0182-GMN, 2013 WL 178130 (D. Nev. Jan. 16, 2013) ("If the substantial relatedness test is satisfied, there is a rebuttable presumption that the 'attorney received confidential information during [the] prior representation.'"). While the Supreme Court of Nevada has never set forth a rebuttable presumption standard to the test for substantial relatedness, presumably because it would directly contradict the holding in *Robbins v. Gillock*, 109 Nev. 1015, 1018, 862 P.2d 1195, 1197 (1993)—that the moving party is not required to divulge the confidences communicated, nor should a court inquire into whether an attorney actually acquired confidential information in the prior representation which is substantially related to the current representation—other courts have applied such a standard. Thus, at this time, there appears to be disagreement as to whether the test for substantial relatedness pursuant to NRPC 1.9 is rebuttable.

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35. On March 18, 2014, the Former Trustee, by and through the Kim Firm, filed his Statement of Issues and Designation of Record on Appeal [Dkt. No. 614].

36. On March 19, 2014, MAC filed its Opposition to the Former Trustee's Motion for Leave to Appeal [Dkt. No. 616].

37. On March 19, 2014, Larson and L&Z filed their Opposition to the Motion for Leave to Appeal with the BAP [Case No. 14-1096, Dkt. No. 5].

38. On March 24, 2014, the Former Trustee filed his Omnibus Reply in Support of the Motion for Leave to Appeal [Dkt. No. 626].

39. On April 14, 2014, the Former Trustee filed a Motion to Extend the Time to File his Opening Brief with the BAP [Case No. 14-1096, Dkt. No. 13]. In the motion, the Former Trustee argued that since the BAP had yet to issue a ruling on the Motion for Leave to Appeal, an extension would potentially save a lot of time and money should the Former Trustee's motion be denied. The BAP granted the Former Trustee's motion for an extension on April 15, 2014 [Case No. 14-1096, Dkt. No. 14].

40. On May 5, 2014, BAP issued its Order Denying Leave and Dismissing the Appeal [Case No. 14-1096, Dkt. No. 16].

41. While the Kim Firm spent approximately 64.3 hours researching, preparing for, and prosecuting the appeal of the Disqualification Order, as BAP ultimately denied the Former Trustee's leave to appeal, the Kim Firm, in good faith and in its billing judgment, chose not to charge for any of this time as the appeal ultimately did not provide a benefit to the estate.

E. The MAC Creditors' Motion for Relief from the Automatic Stay

42. As mentioned previously, MAC, on behalf of the MAC Creditors filed their Motion for Relief on November 12, 2012 [Dkt. No. 466], wherein the MAC Creditors sought leave from the Court to "strip [Gayler] of any alleged membership interests he still claims he owns in Angelus and Angelus II[]"¹⁰ by and through District Court Case No. A-09-596777-C ("777 Action").

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¹⁰ See *Motion for Relief* [Dkt. No. 466] at 3:1-2.

43. On March 12, 2014, MAC, on behalf of the MAC Creditors filed a Local Rule 47-3(B) Request for a Decision on their Motion for Relief (“Request for Decision”) [Dkt. No. 611].

44. On March 19, 2014, based on the findings of this Court in the Memorandum Decision [Dkt. No. 590]—specifically the fact that the Court questioned whether Lisowski actually consented to the Response to the Motion for Relief filed on his behalf—the Former Trustee filed an Opposition to the MAC Creditors’ Motion for Relief (“Opposition to Motion for Relief”) [Dkt. No. 617].

45. On March 26, 2014, the MAC Creditors filed a Motion to Strike the Former Trustee’s Opposition to the Motion for Relief (“Motion to Strike”) [Dkt. No. 628].

46. The hearing on the MAC Creditors’ Motion to Strike was set to be heard on May 6, 2014 [Dkt. No. 632] but was subsequently vacated.¹¹

F. The Motion to Approve Settlement Agreement Continues

47. After the Court ruled on the Motion to Disqualify, briefing continued on the Motion to Approve Settlement Agreement.

48. On April 7, 2014, after being virtually silent during the entire case, the Internal Revenue Service (“IRS”) filed a Limited Objection to the Former Trustee’s Motion to Approve Settlement Agreement [Dkt. No. 639].

49. On April 11, 2014, MAC on behalf of the MAC Creditors, filed an Opposition to the Former Trustee’s Motion to Approve Settlement Agreement [Dkt. No. 643].

50. On April 11, 2014, Larson on behalf of the MAC Creditors, filed an Opposition to the Former Trustee’s Motion to Approve Settlement Agreement [Dkt. No. 645].

51. On April 11, 2014, the United States Trustee (“UST”) filed an Objection to the Former Trustee’s Motion to Approve Settlement Agreement [Dkt. No. 646]. In that objection, the UST asserted that Trustee’s involvement in this bankruptcy case along with his involvement

¹¹ As discussed in more detail below, after the Former Trustee voluntarily withdrew from this case, Victoria L. Nelson (“Nelson”) was appointed as the new trustee. Pursuant to a Stipulation entered into between the MAC Creditors and Nelson [Dkt. No. 680], Nelson agreed to withdraw the Opposition to Motion for Relief and the MAC Creditors agreed to withdraw their Motion to Strike. The Stipulation was approved by the Court on May 2, 2014 [Dkt. No. 681]. Thus, the hearing on the MAC Creditors’ Motion to Strike was vacated.

1 in the Angelus II bankruptcy case has resulted in a conflict of interest wherein Trustee's business
2 judgment could not apply with regards to the pending settlement agreement [Dkt. No. 646].

3 **G. The Former Trustee Voluntarily Resigns from the Gayler and Angelus II**
4 **Bankruptcy Cases and the Kim Firm Follows Suit**

5 52. On April 15, 2014, in light of the UST's assertion of a conflict of interest, the
6 Former Trustee sent the UST his resignations with the request that the UST accept his
7 resignations and immediately assign both cases to other trustees.

8 53. On April 16, 2014, the UST accepted the Former Trustee's resignations and
9 informed the Former Trustee that successor appointments would be made.

10 54. On April 16, 2014, the Kim Firm filed its Motion to Withdraw as Counsel for the
11 Trustee on an order shortening time ("Motion to Withdraw") to avoid even the appearance of
12 impropriety in light of the UST's assertion of a conflict of interest [Dkt. No. 648].

13 55. The Court granted the Kim Firm's Motion to Withdraw on April 25, 2014 [Dkt.
14 No. 668].

15 56. On April 21, 2014, Nelson was appointed as the new trustee for the case,
16 replacing Former Trustee David A. Rosenberg.

17 57. To this date, the Kim Firm continues to cooperate with the new trustee.

18 **V.**

19 **STATEMENT REGARDING EXPERTISE REQUIRED**

20 58. The Kim Firm is skilled in insolvency proceedings and has special knowledge
21 which enables the Kim Firm to perform services of benefit to the Former Trustee and to the
22 creditors of the bankruptcy estate. Over the last 4 years, the Kim Firm has successfully
23 represented trustees, debtors, and creditors in more than 500 bankruptcy cases.

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VI.

TASKS PERFORMED BY THE FIRM DURING THE COMPENSATION PERIOD**A. The Kim Firms Retention and Administration.**

59. The Kim Firm billed 2.3 hours (\$805.00) relating to its retention. This time included, but was not limited to, the administrative work necessary for counsel to represent the Former Trustee in this matter.

B. Case Administration.

60. The Kim Firm billed 140.0 hours (\$49,000.00) relating to case administration.

61. Prior to the Kim Firm being hired on as counsel for the Former Trustee, MAC was representing Lisowski, the Former Trustee, and the MAC Creditors in this bankruptcy case. MAC was also representing the MAC Creditors in various state court actions against and/or involving Gayler and three adversary actions stemming from this bankruptcy case. The Former Trustee, concerned that MAC was conflicted out of representing the estate as well as the MAC Creditors given the conflicts involved, hired the Kim Firm to, among other things, look into whether MAC could continue to represent the Former Trustee in this case.

62. While the Former Trustee, with the assistance of the Kim Firm, was able to convince MAC to withdraw as special counsel in this case, MAC refused to withdraw as counsel for the MAC Creditors despite the conflicts involved and the confidential information received in its two year representation of Lisowski and the Former Trustee. The Former Trustee believed that Larson and his new firm L&Z was similarly conflicted out of representing the MAC Creditors given Larson worked for MAC for a year and a half while MAC was acting as special counsel and numerous documents were filed by Larson in the Gayler bankruptcy case and Adversary Case No. 11-01410-mkn ("410 Adversary Action"). To prevent MAC and Larson from using the confidential information they gained as special counsel to the benefit of the MAC Creditors, the Trustee believed he had no choice but to move for disqualification. No creditor should have a greater advantage over other creditors of the estate and the trustee of the estate, with the Court's approval of course, should be the one to determine what is in the estate's best interests, not a single group of creditors. To get the estate back on track, the Former Trustee

1 believed that MAC's disqualification from this case was necessary and in the best interests of the
2 estate.

3 63. Additionally, to prevent the MAC Creditors from divesting Gayler (and thereby
4 the estate) of his interests in the Angelus entities in the 777 Action—which amounts to over
5 \$400,000.00—the Kim Firm also drafted an Opposition to the MAC Creditors' Motion for Relief
6 and declarations in support. This opposition seemed justified given the Court's statements in the
7 Memorandum Opinion—specifically that: (1) MAC was conflicted out of representing both
8 Lisowski and the MAC Creditors on this issue; (2) MAC exceeded the scope of its employment
9 by filing a response for Lisowski; and (3) the Court questioned whether Lisowski actually
10 consented to the response filed by MAC on his behalf.

11 64. The Kim Firm spent a significant amount of time reviewing documents and
12 pleadings filed in Gayler's bankruptcy case as well as the adversary actions and state court
13 litigations, communicating with the Former Trustee and MAC regarding conflicts of interest,
14 researching various issues including but not limited to what can be addressed in reply briefs, the
15 bankruptcy court's jurisdiction, and violations of the automatic stay, drafting the Motion to
16 Disqualify, the Reply in Support, numerous declarations for the Former Trustee, the Opposition
17 to the Motion to Strike, the Opposition to the Motion for Relief, and drafting the Motion to
18 Withdraw. The Kim Firm also prepared for and attended the hearing on the Motion to
19 Disqualify and the Motion to Withdraw.

20 **C. Asset Analysis and Recovery.**

21 65. The Kim Firm billed 42.9 hours (\$15,015.00) relating to asset analysis and
22 recovery.

23 66. When the Former Trustee was appointed to this case, Lisowski, with MAC's
24 assistance, was on the verge of reaching a settlement with Gayler in the 410 Adversary Action.
25 As Lisowski, with MAC's assistance, was only able to bring one out of approximately sixty of
26 the Gayler Entities into the bankruptcy estate in almost a year of litigation—which accrued close
27 to \$1.0 million dollars in legal fees—the Former Trustee believed that settlement was in the best
28 interest of the estate.

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67. The Kim Firm spent a significant amount of time reviewing documents and pleadings filed in Gayler's bankruptcy case as well as 410 Adversary Action, communicating with Sylvester and Gayler to negotiate a settlement agreement, revising the settlement agreement originally drafted by MAC as special counsel, drafting the Motion to Approve Settlement Agreement and declaration in support, and drafting the Stipulation and Order to Continue the Hearing Date on the Motion to Approve Settlement Agreement.

D. Appeal of the Disqualification Order.

68. The Kim Firm spent 64.3 hours (\$22,505.00) related to the appeal of the Disqualification Order. However, exercising its billing judgment, and in good faith, the Kim Firm is not seeking compensation for any of that time.

69. The Kim Firm spent a significant amount of time reviewing documents and pleadings filed in Gayler's bankruptcy case, including but not limited to the Memorandum Decision on Trustee's Motion to Disqualify, communicating with the Former Trustee regarding the Memorandum Decision, researching the legal standard on a motion to disqualify pursuant to Nevada Rule of Professional Conduct 1.9, particularly what standard is to be applied to the test for substantial relatedness, drafting the Notice of Appeal and Motion for Leave to Appeal, drafting the Statement of Issues and Designation of Record on Appeal, reviewing the Oppositions to the Motion for Leave to Appeal filed by MAC and Larson, drafting the Omnibus Reply in Support of the Motion for Leave to Appeal, communicating with the BAP regarding procedural requirements associated with an appeal from a bankruptcy court order, communicating with MAC and Larson regarding an extension to file the Trustee's Opening Brief, and drafting a Motion for an Extension of Time.

E. Fee/Employment Applications.

70. The Kim Firm billed 3.5 hours (\$1,225.00) relating to its application for compensation. This time included, but was not limited to, the administrative work necessary to effectuate payment to the Kim Firm in this matter.

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VII.

ACTUAL AND NECESSARY EXPENSES

71. The Kim Firm has incurred and paid out-of-pocket expenses totaling \$8,587.19 during the Compensation Period. The items to which reimbursement is being sought are not included in the Kim Firm's overhead, and are not, therefore, a part of the hourly rates charged by the Kim Firm.

72. The Kim Firm charges the Trustee \$0.20 per page for scanning and photocopying, \$19.00 per messenger run, and all other costs at the actual cost, without any profit on such expenses.

73. The Kim Firm submits that the expenses that it has incurred and paid in rendering legal services to the Trustee during the Compensation Period are reasonable and necessary under the circumstances of this Chapter 7 case, and that the reimbursement to the Kim Firm for such expenses is appropriate and should be allowed.

VIII.

THE REQUESTED COMPENSATION SHOULD BE ALLOWED

74. 11 U.S.C § 330 provides that a court may award a professional who is employed pursuant to 11 U.S.C. § 327 "...reasonable compensation for actual and necessary services rendered . . . and reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(3) provides that "[i]n determining the amount of reasonable compensation to be awarded... to [a] . . . professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors," including the following:

- (a) the time spent on such services;
- (b) the rates charged for such services;
- (c) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
- (d) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;

(e) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and

(f) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

11 U.S.C. § 330(a)(3).

75. A customary review of a fee application under 11 U.S.C. § 330 starts with a determination of the ‘lodestar,’ by multiplying a reasonable number of hours expended by a reasonable hourly rate. *See Unsecured Creditors’ Comm. v. Puget Sound Plywood, Inc.*, 924 F.2d 955, 960 (9th Cir. 1991); *see also In re Powerine Oil Co.*, 71 B.R. 767, 770 (B.A.P. 9th Cir. 1986) (quoting *In re Yermakov*, 718 F.2d 1465, 1471 (9th Cir. 1983)).

76. The Ninth Circuit in *Yermakov* made specific references to *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974), in which the Fifth Circuit listed twelve factors which should be considered in awarding attorneys’ fees. These “*Johnson* factors” have been referred to and utilized by many courts in considering and awarding attorneys’ fees in bankruptcy cases. *See In re Pacific Express, Inc.*, 56 B.R. 859 (Bankr. E.D. Cal. 1985). The factors specified in *Johnson* are:

- (1) The time and labor required;
- (2) The novelty and difficulty of the questions;
- (3) The skill requisite to perform the legal service properly;
- (4) The preclusion of other employment by the attorney due to acceptance of case;
- (5) The customary fee;
- (6) Whether the fee is fixed or contingent;
- (7) Time limitations imposed by the client or the circumstances;
- (8) The amount involved and the results obtained;
- (9) The experience, reputation, and ability of the attorneys;
- (10) The “undesirability” of the case;
- (11) The nature and length of the professional relationship with the client; and
- (12) Awards in similar cases.

1 *See Johnson v. Georgia Highway Express, Inc.*, 488 F.2d at 717-19 (5th Cir. 1974).

2 77. In addition, a bankruptcy court examines the circumstances and manner in which
3 services are performed and results achieved to determine a reasonable fee. *See Roberts,*
4 *Sheridan & Kotel, P.C. v. Bergen Brunswig Drug Co. (In re Mednet)*, 251 B.R. 103, 108 (B.A.P.
5 9th Cir. 2000). Such examination includes a review of the following factors:

- 6 (a) Whether the services were authorized;
- 7 (b) Whether the services were necessary or beneficial to the
8 administration of the estate at the time they were rendered;
- 9 (c) Whether the services adequately documented; and
- 10 (d) Whether the fees requested are reasonable, taking into
consideration the factors set forth in section 330(a)(3).

11 *See Id.*; *see also Leichty v. Neary (In re Strand)*, 375 F.3d 854, 860 (9th Cir. 2004).

12 78. While the services need not “result in a material benefit to the estate[,]” approval
13 of fees is contingent upon a showing “that the services were ‘reasonably likely’ to benefit the
14 estate at the time the services were rendered.” *See In re Las Vegas Monorail Co.*, 458 B.R. 553,
15 556 (Bankr. D. Nev. 2011) (quoting *In Re Mednet*, 251 B.R. at 108). Here, the Former Trustee
16 believed a settlement with Gayler would save the estate from costly and complex litigation in the
17 410 Adversary Action. As mentioned previously, Lisowski, with MAC’s assistance, was only
18 able to bring one out of approximately sixty Gayler Entities into the estate in almost a year of
19 litigation. This year of litigation accrued close to \$1.0 million dollars in attorney’s fees. Given
20 the fact that MAC, having intimate knowledge of the intricacies and details of Gayler’s various
21 fraudulent transfers and conveyances, was unable to produce significant results in the 410
22 Adversary Action and considering the amount of time and money it would take for the Former
23 Trustee to learn all of the details of this case to pursue this action zealously, the Former Trustee
24 and the Kim Firm believed that a settlement with Gayler was likely to benefit the estate.
25 Moreover, the Former Trustee was not alone in this opinion. When the Former Trustee inherited
26 this case from Lisowski, Lisowski and MAC were in the midst of working out a settlement with
27 Gayler to bring all of the Gayler Entities into the estate.

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1055 WHITNEY RANCH DRIVE, SUITE 110
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79. The professional services performed by the Kim Firm were necessary and appropriate to the administration of the Chapter 7 Case and were in the best interest of the estate, creditors and other parties in interest. As set forth previously, the Kim Firm was hired, among other things, to investigate the conflicts of interest involved in MAC's dual representation of Lisowski, the Former Trustee, and the MAC Creditors in this bankruptcy case. While the Former Trustee, with the assistance of the Kim Firm, was able to convince MAC to withdraw as special counsel in this case, MAC refused to withdraw as counsel for the MAC Creditors despite the conflicts involved and the confidential information it received in its representation of Lisowski and the Former Trustee. To prevent MAC from using the confidential information it gained as special counsel to benefit the MAC Creditors position to the detriment of other creditors of the estate, including but not limited to the IRS, the Former Trustee believed MAC's disqualification was necessary and appropriate to the administration of this estate. While of course, the MAC Creditors will likely disagree with this assessment, it should be noted that this particular course of action could have easily been avoided. First, had MAC fully disclosed the conflicts involved in its employment application, MAC never would have been hired as special counsel in the first place. Second, after the Former Trustee questioned the conflicts involved in MAC's dual representation, MAC, to avoid even the appearance of impropriety, should have voluntarily withdrawn as counsel for the Former Trustee as well as the MAC Creditors. Neither of these things happened so, to get the estate back on track, the Former Trustee believed it was necessary and appropriate to move for MAC's disqualification in this case. While the Court ultimately did not disqualify MAC, the conflicts involved in this case would have never come to light had the Former Trustee turned a blind eye to MAC's misconduct.

80. Compensation of the foregoing services as requested is commensurate with the complexity, importance, and nature of the problems, issues, and tasks involved. The professional services were performed expeditiously, thoroughly, and in an efficient manner.

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1 81. The Kim Firm submits that its fees are reasonable based on the customary
2 compensation charged by comparably skilled practitioners in a competitive legal market. The
3 Kim Firm has carefully reviewed the detailed time records submitted with the Application and
4 exercised appropriate billing judgment, including not charging for certain time that it determined
5 was excessive.

6 82. Former Trustee has reviewed this Application and fully approves the requested
7 amount herein.

8 **IX.**

9 **CONCLUSION**

10 WHEREFORE, The Kim Firm respectfully requests that the Court enter an order as
11 follows:

12 1. Allowing the Kim Firm reasonable professional compensation of a final basis in
13 the amount of \$66,025.00, and reimbursement of actual and necessary expenses in the amount of
14 \$8,587.19, for a total of \$74,612.19.

15 2. Allowing the Kim Firm to charge an amount not to exceed \$500.00 for
16 presentation of this Application at hearing and for preparing the respective Order; and

17 3. Granting the Kim Firm such other and further relief as is just and proper.

18 Dated this 19th day of May, 2014.

19 **HOWARD KIM & ASSOCIATES**

20
21 */s/Howard C. Kim*

22 Howard C. Kim, Esq.

23 Nevada Bar No. 10386

24 Jacqueline A. Gilbert, Esq.

25 Nevada Bar No. 10593

26 Katherine C.S. Carstensen, Esq.

27 Nevada Bar No. 10656

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Former Chapter 7 Trustee*

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EXHIBIT 1

Howard Kim & Associates

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Henderson, NV 89014
Telephone: 702-485-3300
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May 16, 2014
Invoice No. 1873

Mr. David A. Rosenberg
Chapter 7 Trustee
5030 Paradise Road, Suite B-215
Las Vegas, NV 89119

Client Number: ROSAA000XZ David A. Rosenberg
Matter Number: 2322 Rosenberg/ Gayler
For Services Rendered Through 5/16/2014.

Fees

<u>Date</u>	<u>Tmkpr</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
B100	Administration			
02/11/2013	JG	Draft application for employment as general counsel - review docket for facts.	0.80	\$280.00
02/12/2013	JG	Confer with atty Kim regarding employment application and adding additional facts.	0.10	\$35.00
03/01/2013	JG	Draft OST application and supporting documents for motion to employ	0.60	\$210.00
03/13/2013	HCK	Attend hearing on Motion to Employ	0.70	\$245.00
03/14/2013	KC	Draft Order Approving Motion to Employ and Upload	0.10	\$35.00
		Administration	2.30	\$805.00
B110	Case Administration			
02/04/2013	HCK	Meeting with Trustee and Marquis Aurbach Coffing attorneys (Terry Coffing, Phil Aurbach, Zach Larson, Liane Wakayama, Dale Hayes, Jessica Goodey) regarding MAC's role in the state court and bankruptcy proceedings	2.30	\$805.00
02/11/2013	JG	Confer with Trustee regarding various issues.	0.40	\$140.00
02/11/2013	KC	Review Application to Employ MAC as Special Counsel, Declaration in Support, and Order	0.70	\$245.00
02/12/2013	JG	Telephone conference with J. Goodey regarding stipulation for Sunset II money and the motion to lift stay	0.80	\$280.00
02/12/2013	JG	Review stipulation and proceeds distribution for Sunset II and forward information to Trustee.	0.20	\$70.00

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02/13/2013	JG	Telephone call with T. Coffing regarding representation.	0.60	\$210.00
02/19/2013	JG	Review email sent to Trustee by M. Schnippel regarding GCS and leave voice message on work and cell phones.	0.30	\$105.00
02/19/2013	JG	Telephone call with M Schnipper; review documents sent in response to request regarding GCS; forward same to Trustee	0.60	\$210.00
02/26/2013	HCK	Review of 1)Loerwald's MSJ 2)Trustee's Opposition to Loerwald's MSJ 3)Trustee's MSJ re: alter ego 4)Statement of Undisputed Facts in support of MSJ 5)Trustee's Motion to Set Aside Telephone conference with attorney Jessica Goodey and Jackie Gilbert	2.60	\$910.00
02/28/2013	JG	Telephone call with J. Goodey regarding hearing on stipulation in adversary and discuss opposition to motion for judgment on pleadings.	0.30	\$105.00
02/28/2013	JG	Telephone call with J. Sylvester regarding hearing on stipulation in adversary and other matters.	0.30	\$105.00
03/01/2013	HCK	Telephone confrence with Terry Coffing and Jacqueline Gilbert regarding upcoming trial in CH Angelus IV; telephone call with attorney Brian Walters regarding the Brown's role in 23 Golden Sunray transaction	0.70	\$245.00
03/03/2013	JG	Receive and review information of other cases docketed in state court involving Debtor and his other entities.	0.30	\$105.00
03/05/2013	HCK	Review of MAC's Rule 9019 motion and draft of David Rosenberg Declaration	0.40	\$140.00
03/05/2013	JG	Meeting with Trustee, HCK, T Coffing regarding ongoing cases related to Gayler	1.00	\$350.00
03/12/2013	JG	Confer with HCK and Trustee regarding ongoing potential conflicts and possible resolution.	0.40	\$140.00
03/21/2013	JG	Confer and analyze options regarding ongoing cases related to Gayler.	0.30	\$105.00
03/21/2013	JG	Telephone call with T. Coffing regarding 9019 motion.	0.10	\$35.00
03/22/2013	JG	Receive and read email from P. Gallegher regarding Dumol llc property taxes; Telephone conference with Trustee regarding same.	0.40	\$140.00
03/23/2013	JG	Review Dumol documents re managing member authority	1.00	\$350.00
03/24/2013	JG	Email communications with Trustee regarding Dumol.	0.20	\$70.00

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03/25/2013	JG	Email communications with Trustee regarding Dumol and conferring on options.	0.10	\$35.00
03/25/2013	JG	Confer with A. David regarding research into right to put entity in bankruptcy.	0.20	\$70.00
03/25/2013	KC	Review Trustee's Motion to Sell Free and Clear of Liens Dominus M-B, Declarations in Support, Opposition, Reply and Order	1.40	\$490.00
03/25/2013	KC	Review Trustee's Motion for Turnover of Estate Assets, Opposition, Reply, and Order	0.90	\$315.00
03/26/2013	HCK	Telephone call with Terry Coffing regarding a global settlement; meeting with Trustee regarding MAC's concern about administrative claims in the case	0.80	\$280.00
04/10/2013	KC	Review 410 Adversary Complaint and Amended Adversary Complaint,	0.90	\$315.00
04/10/2013	KC	Review Motions to Dismiss in 410 Adversary Action, Trustee's Opposition, Reply in Support, and Order	1.30	\$455.00
04/10/2013	KC	Review Motion for Partial Summary Judgment in 410 Adversary Action, Opposition, Reply, and Order	1.20	\$420.00
04/10/2013	KC	Confer w/HK re Document Review	0.10	\$35.00
04/11/2013	KC	Review Trustee's Motion for Summary Judgment in 410 Adversary Action, Opposition, Reply in Support, and Order	1.40	\$490.00
04/11/2013	KC	Review Counter Motion for Summary Judgment in 410 Adversary Action, Opposition, Reply, and Order	1.10	\$385.00
04/12/2013	KC	Review Loerwald's Motion for Summary Judgment, Trustee's Opposition, Reply and Order	0.90	\$315.00
04/23/2013	KC	Review E-mails, Petition, Schedules and Other Related Documents, Perform Search on Secretary of State Website for Gayler entities, Compare entities listed on petition with entities listed on Secretary of State website to ensure Gayler does not have any interests outside of 69 listed entities on BK petition	2.40	\$840.00
05/01/2013	HCK	Telephone call with attorney Zach Larson regarding evidentiary hearing to determine whether Gayler had authority to file BK for the debtor	0.40	\$140.00
05/13/2013	JG	Confer with Trustee regarding listing of Dumol property and review emails regarding same.	0.60	\$210.00
07/01/2013	KC	Call to Trustee's Office re Distribution Amount from Dominus	0.10	\$35.00
07/12/2013	KC	Review Motion for Relief from Stay re Sunset V, Declaration in Support, and Order	0.70	\$245.00

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07/15/2013	HCK	Telephone call with attorney Edward Hannigan regarding the Alper Settlement in the state court action	0.80	\$280.00
07/15/2013	HCK	Legal research regarding whether removal of the debtor as a manager of LLC constitutes a violation of the automatic stay	2.00	\$700.00
07/15/2013	KC	Draft Motion to Disqualify	3.80	\$1,330.00
07/15/2013	KC	Confer w/HK re Motion to Disqualify	0.20	\$70.00
07/16/2013	KC	Confer w/HK and JG re Motion to Disqualify and OST Documents	0.10	\$35.00
07/16/2013	KC	Revise OST Motion and Supporting Documents w/HK edits	0.70	\$245.00
07/16/2013	KC	Revise Motion to Disqualify w/JG edits	0.80	\$280.00
07/16/2013	KC	Review E-mail from Z.Larson re Motion to Disqualify	0.10	\$35.00
07/16/2013	KC	Draft Order Granting OST on Motion to Disqualify	0.20	\$70.00
07/16/2013	KC	Draft Attorney Information Sheet on OST	0.10	\$35.00
07/16/2013	KC	Draft Declaration in Support of OST on Motion to Disqualify	0.40	\$140.00
07/16/2013	KC	Draft Motion for OST on Motion to Disqualify	0.20	\$70.00
07/16/2013	KC	Revise Motion to Disqualify w/HK edits	0.90	\$315.00
07/16/2013	JG	Review and Edit Motion to Disqualify	0.50	\$175.00
07/16/2013	HCK	Review Motion to Disqualify and OST Documents	0.60	\$210.00
07/16/2013	KC	Draft Motion to Disqualify	1.20	\$420.00
07/17/2013	KC	Draft DR Declaration in Support of Motion to Disqualify	0.60	\$210.00
07/17/2013	KC	Revise DR Declaration in Support of Motion to Disqualify w/HK edits, Finalize and File	0.30	\$105.00
07/18/2013	KC	Draft Stipulation and Order on Motion to Disqualify and Motion to Approve SA	0.80	\$280.00
07/18/2013	KC	Review Motion to Lift Stay Filed by MAC on 11/14/2012	0.30	\$105.00
07/18/2013	KC	Confer w/HK re Stip and Order and Motion to Lift Stay Filed by MAC	0.20	\$70.00
07/18/2013	KC	Draft NOH on Motion to Disqualify	0.10	\$35.00
07/18/2013	KC	Confer w/Z. Larson re Stipulation and Order on Motion to Disqualify and Motion to Approve SA	0.10	\$35.00
07/18/2013	KC	Revise Stipulation and Order w/Z. Larson edits	0.30	\$105.00
07/19/2013	KC	Confer w/Z. Larson re Stip and Order, Upload Stip and Order	0.10	\$35.00

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07/23/2013	KC	Draft NOE on Stip and Order, Finalize and File	0.20	\$70.00
07/24/2013	KC	Call to Certificate of Service re ECF Service	0.20	\$70.00
07/24/2013	KC	Reconcile Mailing Matrix and ECF Notifications, Check for Special Notices	0.80	\$280.00
08/01/2013	KC	Confer w/HK re Extended Deadline to Object to Settlement Agreement	0.10	\$35.00
08/08/2013	HCK	Telephone call with attorney Pearl Gallagher regarding Dumol, LLC.	0.30	\$105.00
08/15/2013	HCK	Telephone call with attorney Elizabeth Lowell (889-6665) regarding MAYA I-215 vs. Barry Moore and DA1117 vs. Barry Moore: Nevada Supreme Court issued an Order overturning the DC's granting of Barry Moore's motion to dismiss	0.50	\$175.00
08/16/2013	KC	Confer w/HK re Motion to Disqualify in Gayler	0.10	\$35.00
08/21/2013	JG	Receive and do initial read of opposition to trustee's motion to disqualify.	0.80	\$280.00
08/21/2013	KC	Confer w/HK re Reply to Motion to Disqualify in Gayler	0.20	\$70.00
08/21/2013	HCK	Review MAC's Opposition to Motion to Disqualify and Declarations in Support	1.20	\$420.00
08/21/2013	HCK	Review Larson's Opposition to Motion to Disqualify and Declaration in Support	0.70	\$245.00
08/22/2013	KC	Review MAC's Opposition to Motion to Disqualify, Outline for Reply	1.80	\$630.00
08/22/2013	KC	Review Larson's Opposition to Motion to Disqualify, Outline for Reply	1.80	\$630.00
08/22/2013	KC	Confer w/JG re Reply in Support of Motion to Disqualify	0.20	\$70.00
08/22/2013	KC	Confer w/HK re Reply in Support of Motion to Disqualify	0.20	\$70.00
08/23/2013	KC	Draft Reply in Support of Motion to Disqualify	3.30	\$1,155.00
08/24/2013	KC	Draft Reply in Support of Motion to Disqualify	3.10	\$1,085.00
08/26/2013	KC	Research Case Law for Reply in Support of Motion to Disqualify	0.60	\$210.00
08/26/2013	KC	Confer w/HK and JG re Reply in Support of Motion to Disqualify	0.10	\$35.00
08/27/2013	KC	Revise Reply in Support of Motion to Disqualify w/HK and JG edits	0.90	\$315.00
08/27/2013	KC	Confer w/HK and JG re Reply in Support of Motion to Disqualify	0.40	\$140.00
08/27/2013	KC	Review MAC's Supplement to Opposition to Motion to Disqualify	0.20	\$70.00

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08/28/2013	KC	Confer w/HK, DR, and JG re Reply in Support of Motion to Disqualify	0.30	\$105.00
08/28/2013	KC	Draft, Finalize and File Ex Parte Motion to Exceed Page Limit in Gayler	0.30	\$105.00
08/28/2013	KC	Draft and Upload Order Granting Motion to Exceed Page Limit	0.20	\$70.00
08/28/2013	KC	Confer w/HK re Motion and Order to Exceed Page Limit	0.10	\$35.00
08/28/2013	KC	Draft DR Declaration in Support of Reply in Support of Motion to Disqualify	0.90	\$315.00
08/28/2013	KC	Revise Reply in Support of Motion to Disqualify w/DR edits	0.60	\$210.00
08/29/2013	KC	Send Reply, Declaration and NOE for Service, Call to CertificateofService.com	0.20	\$70.00
08/29/2013	KC	Confer w/TD re Courtesy Copy of Reply in Support of Motion to Dismiss to J. Nakagawa	0.10	\$35.00
08/29/2013	KC	Draft Notice of Entry of Order, Finalize and File	0.20	\$70.00
08/29/2013	KC	Check for Special Notices, Draft COS for Reply	0.30	\$105.00
08/30/2013	KC	Review Hayes Supplemental Declaration in Opposition to Motion to Disqualify	0.10	\$35.00
08/30/2013	KC	Review MAC's Supplemental Declaration in Response to Trustee's Reply Brief	0.20	\$70.00
09/03/2013	KC	Confer w/HK re Motion to Disqualify	0.20	\$70.00
09/03/2013	KC	Review Supplemental Declaration by DR in Support of Motion to Disqualify	0.10	\$35.00
09/03/2013	KC	Document Review of State Court Litigation	1.70	\$595.00
09/03/2013	KC	Confer w/HK and DR re Courtesy Copy of Supplemental Declaration to Court, Call to Trustee's Office re Courtesy Copy	0.10	\$35.00
09/03/2013	KC	Prepare for Hearing on Motion to Disqualify, Outline Arguments, etc.	0.80	\$280.00
09/03/2013	KC	Confer w/HK re Supplemental Declaration in Support of Motion to Disqualify	0.10	\$35.00
09/03/2013	KC	Draft Supplemental Declaration in Support of Motion to Disqualify	0.30	\$105.00
09/03/2013	KC	Review Second Declaration of P. Aurbach in Support of Opposition	0.20	\$70.00

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09/04/2013	JG	Moot argument with HCK and DSC for hearing on disqualification and develop answers to potential questions that could be raised by court.	0.90	\$315.00
09/04/2013	JG	Attend and appear at hearing on motion to disqualify; confer with Trustee, HCK, KCC after hearing to discuss strategy.	2.00	\$700.00
09/04/2013	KC	Confer w/Trustee, HK and JG re Motion to Disqualify and Motion to Strike Reply	0.50	\$175.00
09/04/2013	KC	Research on Motion to Strike and FRCP 12(f)	1.60	\$560.00
09/05/2013	KC	Research on Legal Standard in Motion to Strike, Cite Check Cases in Bench Brief	1.20	\$420.00
09/05/2013	KC	Draft Opposition to Motion to Strike	2.70	\$945.00
09/05/2013	KC	Confer w/HK, DC, and Trustee re Opposition to Motion to Strike	0.60	\$210.00
09/05/2013	KC	Review Supplement to Bench Brief	0.20	\$70.00
09/05/2013	KC	Confer w/HK re Supplement to Bench Brief	0.10	\$35.00
09/05/2013	KC	Review Motion to Strike Bench Brief, Compare w/Version Given at the Hearing for Any Changes	0.30	\$105.00
09/06/2013	KC	Draft Opposition to Motion to Strike	2.40	\$840.00
09/06/2013	KC	Confer w/HK re Subpoenas on MAC and Larson	0.10	\$35.00
09/06/2013	KC	Draft Subpoena for MAC	0.20	\$70.00
09/06/2013	KC	Draft Subpoena for Larson	0.20	\$70.00
09/06/2013	KC	Review Letter from MAC re Retracting Statements in Reply	0.10	\$35.00
09/06/2013	KC	Review FRCP Rule 11 re Sanctions, Confer w/HK, DC, JG and Trustee re the Same	0.20	\$70.00
09/06/2013	KC	Research on FRCP 12(f) Applying to Bankruptcy Proceedings	0.50	\$175.00
09/06/2013	KC	Confer w/DC re FRCP 12(f) Applying to Bankruptcy Proceedings	0.10	\$35.00
09/09/2013	KC	Pull and E-mail Pleadings re Motion to Disqualify to S. Judd	0.20	\$70.00
09/09/2013	KC	Confer w/JG, DC, and HK re Opposition to Motion to Strike	0.40	\$140.00
09/09/2013	KC	Confer w/Trustee re Opposition to Motion to Strike	0.10	\$35.00
09/09/2013	JG	Review and Edit Opposition to Motion to Strike	0.60	\$210.00
09/09/2013	HCK	Review and Revise Opposition to Motion to Strike	0.40	\$140.00
09/10/2013	KC	Review Transcript from Hearing on Motion to Disqualify	0.30	\$105.00
09/10/2013	KC	Review Cases from Trustee re Motion to Disqualify	0.40	\$140.00

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B110 Case Administration

09/10/2013	KC	Confer w/HK re Opposition to Motion to Strike	0.10	\$35.00
09/10/2013	KC	Research on Admissible Evidence to Motion to Disqualify	0.40	\$140.00
09/10/2013	KC	Confer w/HK and JG re Standard in Reply	0.20	\$70.00
09/10/2013	KC	Revise Opposition to Motion to Strike w/HK and JG Edits	0.90	\$315.00
09/11/2013	KC	Confer w/Trustee, HK, and JG re Opposition to Motion to Strike	0.40	\$140.00
09/11/2013	KC	Draft DR Declaration in Support of Opposition to Motion to Strike	0.50	\$175.00
09/11/2013	KC	Revise Opposition to Motion to Strike w/Trustee Edits	0.40	\$140.00
09/12/2013	KC	Draft COS for Opposition to Motion to Strike, Finalize and File	0.20	\$70.00
09/16/2013	KC	Review Order Denying MAC's Motion to Strike Trustee's Reply	0.10	\$35.00
09/17/2013	KC	Confer w/HK re Preparation for Hearing on Motion to Disqualify	0.20	\$70.00
09/17/2013	KC	Review Documents and Prepare for Hearing on Motion to Disqualify	0.40	\$140.00
09/18/2013	KC	Confer w/HK and JG re Hearing on Motion to Disqualify	0.30	\$105.00
09/18/2013	KC	Confer w/TD re Hearing Binders on Motion to Disqualify	0.10	\$35.00
09/18/2013	KC	Research on Waivers under Rule 1.9 of NRPC	1.20	\$420.00
09/18/2013	HCK	Prepare for Hearing on Motion to Disqualify, Confer w/KC re the Same	0.40	\$140.00
09/19/2013	KC	Attend Hearing on Motion to Disqualify	1.80	\$630.00
09/19/2013	HCK	Attend Hearing on Motion to Disqualify	1.80	\$630.00
10/14/2013	KC	Confer w/HK re 2004 Examination of A. Bonifatto	0.10	\$35.00
10/14/2013	KC	Call to A. Bonifatto re 2004 Examination	0.10	\$35.00
10/14/2013	KC	Draft 2004 Examination for A. Bonifatto	0.20	\$70.00
10/14/2013	KC	Draft Order re 2004 Examination for A. Bonifatto	0.20	\$70.00
10/14/2013	KC	Call from A. Bonifatto re 2004 Examination, Confer w/HK re the Same	0.10	\$35.00

Case Administration **94.90** **\$33,215.00**

B120 Asset Analysis and Recovery

02/25/2013	JG	Meeting with Trustee, HCK, and Gayler's counsel regarding potential settlement at Debtor's counsel's office.	2.50	\$875.00
03/25/2013	JG	Meeting with HCK and Trustee to discuss potential litigation and settlement strategies.	0.50	\$175.00

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B120 Asset Analysis and Recovery

04/08/2013	HCK	Meeting with Trustee to prepare for settlement conference, attend settlement conference with MAC	4.60	\$1,610.00
04/08/2013	JG	Meeting with Trustee, HCK, and T. Coffing to discuss resolution and potential settlement with Gayler.	1.70	\$595.00
04/25/2013	KC	Revise Settlement Agreement, Confer w/HK re Settlement Agreement	3.80	\$1,330.00
04/29/2013	KC	Revise Settlement Agreement w/HK and JG edits	1.70	\$595.00
04/29/2013	JG	Review and edit settlement agreement.	0.80	\$280.00
04/29/2013	HCK	Review and edit settlement agreement	0.70	\$245.00
05/01/2013	KC	Confer w/HK and JG re Settlement Agreement	0.40	\$140.00
05/08/2013	HCK	Meeting with attorney Terry Coffing regarding expanding the settlement agreement to include the Campbell plaintiff's claims against the debtor	1.20	\$420.00
05/20/2013	KC	Review Gayler Docs and E-mail from PAurbach, Research Statute of Limitations on Fraudulent Transfers, Confer w/HK re Docs and Possible Fraudulent Transfer	0.70	\$245.00
05/21/2013	HCK	Settlement conference with Trustee, debtor and debtor's counsel	2.50	\$875.00
05/22/2013	KC	Revise Settlement Agreement per Discussion in Meeting w/Gayler	1.30	\$455.00
05/23/2013	KC	Confer w/HK re Revisions to Settlement Agreement	0.10	\$35.00
05/31/2013	KC	Review E-mail from P.Aurbach re Settlement Agreement	0.10	\$35.00
06/03/2013	KC	Confer w/HK re Revisions to Settlement Agreement	0.10	\$35.00
06/03/2013	KC	Revise Settlement Agreement w/JSylvester edits and HK edits	0.80	\$280.00
06/03/2013	KC	E-mail to JSylvester re Revision to Settlement Agreement	0.10	\$35.00
06/11/2013	KC	E-mail to J. Sylvester re Settlement Agreement	0.10	\$35.00
06/12/2013	KC	Confer w/HK re Motion to Approve Settlement Agreement	0.10	\$35.00
06/14/2013	KC	Review Dockets to Draft Facts Section to Motion to Approve Settlement Agreement	1.30	\$455.00
06/17/2013	KC	Draft Motion to Approve Settlement Agreement	3.20	\$1,120.00
06/18/2013	KC	Draft Motion to Approve Settlement Agreement	2.80	\$980.00
06/19/2013	KC	Confer w/HK re Exhibit 1, Send Exhibit 1 to Sylvester	0.10	\$35.00

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B120 Asset Analysis and Recovery

06/21/2013	HCK	Discuss CH Angeles IV and II litigation history with attorney Carstensen and set research agenda regarding possible fraudulent transfer claims in Gayler bankruptcy	0.50	\$175.00
06/21/2013	HCK	Review of the debtor's draft of settlement agreement and telephone call with debtor's counsel regarding the proposed changes	0.80	\$280.00
06/21/2013	KC	Confer w/HK re Motion to Approve Settlement Agreement	0.30	\$105.00
06/21/2013	KC	Revise Motion to Approve Settlement Agreement w/HK edits	1.30	\$455.00
06/21/2013	HCK	Review and Revise Motion to Approve Settlement Agreement	0.80	\$280.00
06/24/2013	KC	Confer w/HK re Settlement Agreement	0.10	\$35.00
07/01/2013	KC	Confer w/HK and JG re Motion to Approve Settlement Agreement	0.20	\$70.00
07/01/2013	KC	Draft DR Declaration in Support of Motion to Approve Settlement Agreement	0.90	\$315.00
07/01/2013	JG	Review and edit motion to approve settlement agreement.	0.90	\$315.00
07/01/2013	KC	Revise Motion to Approve Settlement Agreement w/JG edits	1.10	\$385.00
07/02/2013	KC	Confer w/HK re Motion to Approve Settlement Agreement	0.20	\$70.00
07/02/2013	KC	Conference Call with HK and J.Sylvester re Motion to Approve Settlement Agreement	0.30	\$105.00
07/03/2013	KC	Confer w/HK and JG re Motion to Approve SA	0.10	\$35.00
07/03/2013	KC	Confer w/Trustee re Declaration in Support	0.10	\$35.00
07/03/2013	KC	Revise Declaration in Support, Finalize and File Motion to Approve Settlement Agreement and Supporting Declaration in Main BK and Adversary	0.30	\$105.00
07/03/2013	KC	Draft NOH in Gayler, Finalize and File in Main BK and Adversary	0.30	\$105.00
07/03/2013	KC	Review Docket for Special Notices, Submit Motion to Approve Settlement Agreement and Declaration in Support for Service	0.30	\$105.00
07/16/2013	KC	Call to Jessica Peterson re Motion to Approve Settlement Agreement	0.10	\$35.00
07/24/2013	KC	Draft Second Amended NOH on Motion to Approve SA , Finalize and File, Send for Service	0.40	\$140.00
07/25/2013	KC	File COS re Motion to Disqualify, Declaration, NOE, and NOHs	0.10	\$35.00
07/25/2013	KC	Confer w/HK re NOH on Motion to Approve SA	0.10	\$35.00

Asset Analysis and Recovery	40.40	\$14,140.00
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Grand Totals:	137.60	\$48,160.00
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Billable Hours / Fees:	137.60	\$48,160.00
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Timekeeper Summary

Timekeeper HCK worked 27.70 hours at \$350.00 per hour, totaling \$9,695.00.

Timekeeper JG worked 20.80 hours at \$350.00 per hour, totaling \$7,280.00.

Timekeeper KC worked 89.10 hours at \$350.00 per hour, totaling \$31,185.00.

Cost Summary

<u>Description</u>	<u>Amount</u>
Filing Fee	\$3.00
Photocopies	\$1,183.20
Service of Process	\$3,484.79
Research Fees	\$563.65
	\$5,234.64
Total Costs	\$5,234.64

Prior Balance:	\$0.00
Payments Received:	\$0.00
Current Fees:	\$48,160.00
Advanced Costs:	\$5,234.64
TOTAL AMOUNT DUE:	\$53,394.64

Howard Kim and Associates**INVOICE**

1055 Whitney Ranch Drive, Suite 110
Henderson, Nevada 89014
Phone: 702-485-3300

Invoice # 29
Date: 05/16/2014
Due On: 06/15/2014

David Rosenberg
5030 Paradise Road, B215
Las Vegas, Nevada 89119

Gayler - 09-31603-MKN**Services**

Attorney	Date	Description	Quantity	Rate	Total
JG	10/22/2013	B120 Asset Analysis and Recovery: Confer with HCK and trustee regarding order entered by court continuing hearing on settlement motion.	0.30	\$350.00	\$105.00
HK	12/14/2013	Admin: Review Notices of Appearance for State Court Actions	0.20	\$350.00	\$70.00
KC	12/14/2013	B110 Case Administration: Review Court Dockets in State Court Cases Involving Gayler or Gayler Entities, Draft Notice of Appearances in State Court Actions, Confer w/HK re the Same	0.90	\$350.00	\$315.00
KC	12/16/2013	B110 Case Administration: Revise Notices of Appearance in State Court Actions w/HK edits	0.20	\$350.00	\$70.00
KC	12/17/2013	B110 Case Administration: Finalize and File Notices of Appearance and Request for Notices in State Court Actions	0.20	\$350.00	\$70.00
KC	01/23/2014	B110 Case Administration: Review Letter from MAC	0.10	\$350.00	\$35.00
KC	01/23/2014	B110 Case Administration: Confer w/HK re Demand Letter from MAC	0.10	\$350.00	\$35.00
KC	01/27/2014	B110 Case Administration: Review Letter from MAC to Dumol Members	0.10	\$350.00	\$35.00
KC	01/28/2014	B110 Case Administration: Confer w/HK and Trustee re Letter from Gayler regarding Dumol	0.30	\$350.00	\$105.00
KC	01/29/2014	B110 Case Administration: Conference Call w/J. Sylvester re Dumol, Confer w/HK re the Same	0.50	\$350.00	\$175.00
HK	01/29/2014	B110 Case Administration: Telephone call with debtor's counsel and meeting with trustee regarding seeking a status check with the court	0.50	\$350.00	\$175.00

HK	02/06/2014	B110 Case Administration: Telephone call with Jeff Sylvester regarding the debtor's deteriorating health and need for a status check hearing and pending meditation in the state court between MAC's client and Barret and Gaylor.	0.30	\$350.00	\$105.00
KC	02/10/2014	B110 Case Administration: Document Review re Dumol, Confer w/HK re the Same	0.80	\$350.00	\$280.00
KC	02/10/2014	B110 Case Administration: Draft and File COS for Notices of Appearances in State Court Actions, Draft Notice of Bankruptcy Filing in 956 Action, Serve Documents	1.50	\$350.00	\$525.00
KC	02/10/2014	B110 Case Administration: Research on Whether Stay Must be Lifted to Proceed in Action Against Property of the Estate, Confer w/HK re the Same	1.50	\$350.00	\$525.00
KC	02/13/2014	B110 Case Administration: Research on Jurisdiction of Bankruptcy Court re Actions Affecting Estate Property, Research on Sanctions for Willful Violations of Automatic Stay	1.10	\$350.00	\$385.00
KC	02/15/2014	B110 Case Administration: Reconcile Research on Whether Proceedings Affecting Estate Property Must be File in Bankruptcy Court, Sanctions for Willful Violations of Automatic Stay, and Whether Stay Must be Lifted to Proceed Against Estate Property, Confer w/ HK re the Same	0.30	\$350.00	\$105.00
KC	02/15/2014	B110 Case Administration: Review Documents in 777 State Court Action, Draft Outline for Motion for Order to Show Cause Why Sanctions Should Not Issue For Violation of the Automatic Stay and Motion to Cease State Court Actions	1.70	\$350.00	\$595.00
KC	02/19/2014	B110 Case Administration: Review Documents in 204 and 997 State Court Actions	1.30	\$350.00	\$455.00
KC	02/20/2014	B110 Case Administration: Review Documents in 929 Action, Draft Motion for OSC and to Cease State Court Actions	3.20	\$350.00	\$1,120.00
KC	02/21/2014	B110 Case Administration: Review Documents in State Court Actions, including but not limited to 956 Action, Draft OSC Why Sanctions Should Not Issue for Willful Violations of the Automatic Stay	2.40	\$350.00	\$840.00
KC	02/21/2014	B110 Case Administration: Review Documents in State Court Actions, Research on Post-Petition Actions and Automatic Stay	3.10	\$350.00	\$1,085.00
KC	02/24/2014	B110 Case Administration: Confer w/HK, DC, and JG re Motion for OSC and Violations of the Automatic Stay	0.30	\$350.00	\$105.00
KC	02/24/2014	B110 Case Administration: Confer w/HK, JG, DC, JP, and DR re Case Strategy, Appeal, Motion for OSC, State Court Litigation, Motion to Approve SA, etc.	1.00	\$350.00	\$350.00

KC	02/25/2014	B110 Case Administration: Review Memorandum on Order Denying Motion to Disqualify, Make Notes and Review Relevant Documents	1.60	\$350.00	\$560.00
JP	02/28/2014	Appeal: Began researching & reviewing procedural mechanisms to challenge order denying mot. to disqualify MAC to contest same.	0.30	\$0.00	\$0.00
KC	03/01/2014	Appeal: Confer w/HK re State Court Actions and Appealing Order on Motion to Disqualify, Draft Outline for Research, etc.	0.50	\$0.00	\$0.00
KC	03/03/2014	Appeal: Look Into Procedure on Filing an Appeal, Draft Notice of Appeal and Motion for Leave to Appeal	5.80	\$0.00	\$0.00
KC	03/03/2014	Appeal: Research on Appealing Final and/or Interlocutory Orders, Confer w/JP re the Same	1.80	\$0.00	\$0.00
HK	03/04/2014	B110 Case Administration: Telephone call with the IRS counsel Rollin Thorley regarding the case	0.60	\$350.00	\$210.00
KC	03/04/2014	Appeal: Draft Motion for Leave to Appeal, Confer w/HK, JG, DC, and JP re the Same	4.20	\$0.00	\$0.00
KC	03/05/2014	Appeal: Review Cases Cited in Memorandum re Standard for Motions to Disqualify, Confer w/JP and JG re the Same, Research on Nevada Standard Under NRPC 1.9	1.20	\$0.00	\$0.00
KC	03/05/2014	Appeal: Revise Motion for Leave to Appeal w/JP Research on NRPC 1.9 Standard	2.30	\$0.00	\$0.00
JG	03/05/2014	Appeal: Review and edit motion for appeal and notice of appeal (.2); confer with KCC and JP regarding standard to grant disqualification (.9)	1.10	\$0.00	\$0.00
KC	03/05/2014	Appeal: Finalize and File Notice of Appeal and Motion for Leave to Appeal, Check Docket for Special Notices, Put Together Service List, Send for Service	0.60	\$0.00	\$0.00
KC	03/06/2014	Appeal: File COS for Notice of Appeal and Motion for Leave to Appeal	0.10	\$0.00	\$0.00
KC	03/12/2014	B110 Case Administration: Review MAC's Motion for Determination that Automatic Stay Does Not Apply, Research on Arguable Property of the Estate, Research on Exclusive Jurisdiction of Bankruptcy Courts to Identify Property of the Estate	1.70	\$350.00	\$595.00
KC	03/12/2014	Appeal: Research Designation of Record on Appeal and Statement of Issues, Draft Designation of Record on Appeal and Statement of Issues, Document Review	3.30	\$0.00	\$0.00
KC	03/12/2014	Appeal: Document Review, Draft Statement of Issues and Designation of Record on Appeal, Confer w/HK and JG re the Same	0.10	\$0.00	\$0.00

KC	03/14/2014	B110 Case Administration: Draft Opposition to Motion for Relief from Stay	3.10	\$350.00	\$1,085.00
KC	03/14/2014	B110 Case Administration: Review Documents from 088 Adversary Action, Outline Opposition to Motion for Relief from Stay	1.20	\$350.00	\$420.00
HK	03/15/2014	B110 Case Administration: Review Opposition for Motion for Relief	0.60	\$350.00	\$210.00
KC	03/15/2014	B110 Case Administration: Research on Set Off	0.90	\$350.00	\$315.00
KC	03/15/2014	B110 Case Administration: Revise Opposition to Motion for Relief w/HK Edits	0.70	\$350.00	\$245.00
KC	03/17/2014	B110 Case Administration: Review Local Rules for Page Limits on Motions and Oppositions, Draft Motion to Exceed Page Limit on Opposition	0.60	\$350.00	\$210.00
KC	03/18/2014	Appeal: Draft Designation of Record on Appeal and Statement of Issues, Confer w/HK and JG re the Same, Contact Bankruptcy Court re Designation of Record on Appeal	1.00	\$0.00	\$0.00
KC	03/18/2014	Appeal: Finalize and File Designation of Record on Appeal and Statement of Issues, Draft and File COS	0.40	\$0.00	\$0.00
KC	03/19/2014	Appeal: Confer w/JG and HK re Appeal Brief on Motion to Disqualify	0.30	\$0.00	\$0.00
KC	03/19/2014	Appeal: Outline Appeal Brief, Research Legal Standards	0.30	\$0.00	\$0.00
KC	03/19/2014	Appeal: Research on Nevada Supreme Court Standard on Substantial Relatedness, Review Case Law	0.70	\$0.00	\$0.00
KC	03/19/2014	B110 Case Administration: Draft DR Declaration in Support of Opposition to Motion for Relief, Draft KC Declaration in Support, Revise KC Declaration w/JG edits, Finalize and File Opposition, DR Declaration, and KC Declaration	1.20	\$350.00	\$420.00
JG	03/19/2014	Appeal: Confer with KCC regarding preparing to draft opening brief on appeal.	0.60	\$0.00	\$0.00
JG	03/19/2014	Appeal: Receive and review opposition to motion to allow appeal	0.40	\$0.00	\$0.00
JG	03/19/2014	B110 Case Administration: Review and edit motion to oppose motion for ruling on motion to lift stay and declarations thereto; confer with KCC regarding same.	1.00	\$350.00	\$350.00
KC	03/20/2014	Appeal: Review MAC Opposition to Motion for Leave to Amend, Confer w/JP re the Same	2.00	\$0.00	\$0.00
KC	03/20/2014	Appeal: Call from BAP re Appellee Parties, E-mail to BAP re the Same, Confer w/JG and HK re the Same	0.50	\$0.00	\$0.00

KC	03/20/2014	Appeal: Confer w/HK re Opposition to Motion for Leave to Appeal, Document Review, Look Up E-mail Addresses re Notice, Review Larson Opposition to Motion for Leave to Appeal	1.50	\$0.00	\$0.00
KC	03/20/2014	B110 Case Administration: Check for Special Notices, Draft and File COS for Opposition to Motion for Relief	0.20	\$350.00	\$70.00
JP	03/20/2014	Appeal: Reviewed MAC's Opp'n to Mot. for Leave to Appeal to evaluate responses to same.	0.20	\$0.00	\$0.00
JP	03/20/2014	Appeal: Began researching & reviewing "materially advances termination of case" element for interlocutory review to evaluate responses to MAC's Opp'n to Mot. for Leave to Appeal.	2.10	\$0.00	\$0.00
KC	03/21/2014	B110 Case Administration: Draft NEO re Motion to Exceed Page Limit on Opposition, Finalize and File, Draft COS, Finalize and File, Serve to All Parties	1.00	\$350.00	\$350.00
KC	03/21/2014	B110 Case Administration: Call to R. Thorley (IRS Creditor) re Joinder to Opposition to Motion for Relief, etc.	0.10	\$350.00	\$35.00
KC	03/21/2014	B110 Case Administration: File COS for Opposition to Motion for Relief from Stay	0.10	\$350.00	\$35.00
KC	03/21/2014	Appeal: Document Review, Outline for Response to Opposition to Motion for Leave to Appeal, Research on Appealable Final Orders and Interlocutory Orders, Confer w/JP re Outline for Response	4.00	\$0.00	\$0.00
JP	03/21/2014	Appeal: Researched & reviewed Nev. & extra-Nev. precedent on Fed. dist. courts applying State interpretations of rules of prof. conduct to evaluate responses to MAC's Opp'n.	1.70	\$0.00	\$0.00
KC	03/22/2014	Appeal: Review Cases on Appeals from Final and/or Interlocutory Orders, Draft Reply in Support of Motion for Leave to Appeal	2.90	\$0.00	\$0.00
KC	03/22/2014	Appeal: Draft Reply in Support of Motion for Leave to Appeal, Confer w/HK, JG, and DR re the Same	4.00	\$0.00	\$0.00
KC	03/23/2014	Appeal: Draft Response in Support of Motion for Leave to Appeal	3.40	\$0.00	\$0.00
KC	03/24/2014	Appeal: Revise Response in Support of Motion for Leave w/HK Edits and JG Edits, Review Final Draft, Finalize and File, Draft COS, Finalize and File, Confer w/HK and JG re Service	1.50	\$0.00	\$0.00
KC	03/24/2014	Appeal: Confer w/HK and JG re Reply in Support of the Motion for Leave to Appeal	0.20	\$0.00	\$0.00
JG	03/24/2014	Appeal: Review and edit reply in support of motion to appeal to BAP	0.60	\$0.00	\$0.00

KC	03/25/2014	Appeal: Call Bankruptcy Court re Forwarding Reply ISO Motion for Leave to Appeal to BAP and Transcript	0.10	\$0.00	\$0.00
KC	03/27/2014	Appeal: Research on NRPC 1.9 Standard in Preparation for Appeal Brief	3.30	\$0.00	\$0.00
HK	03/27/2014	B110 Case Administration: Telephone call with Maria Rodriguez from Creditor CoreMark regarding the status of the case	0.10	\$350.00	\$35.00
KC	03/28/2014	B110 Case Administration: Confer w/HK and JG re Motion to Strike Opposition	0.10	\$350.00	\$35.00
KC	03/28/2014	B110 Case Administration: Confer w/DR re Motion for OSC	0.10	\$350.00	\$35.00
KC	03/28/2014	B110 Case Administration: Research on LLCs and Automatic Stay	0.80	\$350.00	\$280.00
JG	03/28/2014	B110 Case Administration: Review and edit motion for OSC	0.70	\$350.00	\$245.00
JG	03/28/2014	B110 Case Administration: Confer with HCK and KCC regarding draft motion OSC	0.50	\$350.00	\$175.00
KC	03/31/2014	Appeal: Work on Outline for Appeal Brief, Research	3.10	\$0.00	\$0.00
KC	04/01/2014	Appeal: Review Cases on Rebuttable Presumption, Research on Rebuttable Presumption, Research on Standard of Appellate Review	3.40	\$0.00	\$0.00
KC	04/02/2014	B110 Case Administration: Confer w/HK, JG, and DC re Opposition to Motion to Strike	0.10	\$350.00	\$35.00
KC	04/02/2014	Appeal: Review Cases for Appeal Brief	0.40	\$0.00	\$0.00
KC	04/03/2014	Appeal: Confer w/HK and JG re Supplement to Designation of Record	0.10	\$0.00	\$0.00
KC	04/03/2014	Appeal: Call to Bankruptcy Court re Supplement to Designation of Record and Certificate of Readiness, Call to BAP re Motion for Leave to Appeal, Briefing Order, and Omnibus Reply, Review Bankruptcy Rules, Confer w/HK and JG re Filing in 9th Circuit, Filing Omnibus Reply, and Motion for Extension	0.80	\$0.00	\$0.00
KC	04/04/2014	Appeal: Contact Bankruptcy Court re Certificate of Readiness and Transcript Filing, Find Sample Motion for Extension of Time for BAP, Draft Motion for Extension of Time, Confer w/JG re the Same	1.70	\$0.00	\$0.00
KC	04/04/2014	Appeal: File Omnibus Reply ISO Motion for Leave to Appeal at BAP, Confer w/JG re the Same, Call to BAP re COS, Draft COS, Confer w/JG re COS, File COS with BAP, Confer w/HK and JG re Motion for Extension of Time	0.70	\$0.00	\$0.00

KC	04/07/2014	B120 Asset Analysis and Recovery: Review IRS Objection to Motion to Approve Settlement Agreement and Supporting Declaration	0.50	\$350.00	\$175.00
KC	04/08/2014	B110 Case Administration: Confer w/HK re IRS Objection to Motion to Approve Settlement Agreement	0.10	\$350.00	\$35.00
KC	04/08/2014	Appeal: Call to Bankruptcy Court re Supplemental Designation of Record	0.30	\$0.00	\$0.00
HK	04/09/2014	B110 Case Administration: Telephone call with the IRS counsel Rollin Thorley regarding motion to lift stay	0.90	\$350.00	\$315.00
KC	04/09/2014	B110 Case Administration: Confer w/HK re Motion to Abandon	0.10	\$350.00	\$35.00
KC	04/09/2014	B110 Case Administration: Confer w/HK re Opposition to Motion to Strike	0.10	\$350.00	\$35.00
KC	04/11/2014	B120 Asset Analysis and Recovery: Review UST Opposition to Motion to Approve Settlement Agreement	0.40	\$350.00	\$140.00
KC	04/11/2014	B110 Case Administration: Confer w/Trustee, HK, and JG re UST Opposition and Withdrawal	0.40	\$350.00	\$140.00
KC	04/11/2014	Appeal: E-mail to A. Marquis and Z. Larson re Extension to File Opening Brief	0.10	\$0.00	\$0.00
KC	04/11/2014	B120 Asset Analysis and Recovery: Review MAC Opposition to Motion to Approve Settlement Agreement and Declaration in Support	0.70	\$350.00	\$245.00
KC	04/11/2014	B120 Asset Analysis and Recovery: Review Larson Opposition to Motion to Approve Settlement Agreement	0.60	\$350.00	\$210.00
KC	04/12/2014	B110 Case Administration: Confer w/HK, DC, and JG re Case Strategy	0.30	\$350.00	\$105.00
KC	04/14/2014	Appeal: Revise Motion for Extension of Time to File Opening Brief and Supporting Declaration, Confer w/ HK and JG re the Same	0.30	\$0.00	\$0.00
KC	04/14/2014	Appeal: Finalize and File Motion for Extension of Time to File Opening Brief, Draft COS, Confer w/HK and JG re the Same	0.40	\$0.00	\$0.00
KC	04/15/2014	B110 Case Administration: Draft Motion to Withdraw as Counsel, HK Declaration in Support, Motion for OST, Declaration in Support, Attorney Information Sheet, and Order Granting OST, Draft E-mail to J. Sylvester, Trustee, Wakayama, Larson, R. Thorley, and Edward M. McDonald, Confer w/HK re the Same, Send E-mail re OST	1.00	\$350.00	\$350.00
SF	04/17/2014	B110 Case Administration: Schedule new briefing deadlines	0.10	\$150.00	\$15.00

HK	04/18/2014	B110 Case Administration: Conference call with Judge Thurman	0.60	\$350.00	\$210.00
KC	04/18/2014	B110 Case Administration: Teleconference Call w/ Judge Thurman, D. Hayes, Z. Larson, E. McDonald, R. Thorley, and M. Kneeland re Motion to Approve Settlement Agreement, etc., Confer w/HK and JG re the Same	0.60	\$350.00	\$210.00
KC	04/18/2014	B110 Case Administration: Retrieve Documents from ECF and Save, Confer w/HK re Updating V. Nelson re MAC's Motion for Relief from the Automatic Stay, E-mail to V. Nelson re Pending Motions, MAC's Motion for Relief, etc.	0.70	\$350.00	\$245.00
KC	04/21/2014	B110 Case Administration: Put All Documents on CDs for New Trustee, Draft Cover Letter and Send to V. Nelson's Office	0.50	\$350.00	\$175.00
KC	04/23/2014	B110 Case Administration: Confer w/HK re Response to Limited Opposition to Motion to Withdraw as Counsel	0.10	\$350.00	\$35.00
HK	04/24/2014	Admin: Attend hearing on Motion to Disqualify	1.00	\$350.00	\$350.00
KC	04/24/2014	B160 Fee/Employment Applications : Draft Application for Compensation, Confer w/HK and JG re the Same	2.00	\$350.00	\$700.00
KC	05/16/2014	B160 Fee/Employment Applications : Finalize Application for Compensation, Draft HK and DR Declarations in Support	1.50	\$350.00	\$525.00
				Services Subtotal	\$17,865.00

Expenses

Type	Date	Description	Quantity	Rate	Total
Expense	09/05/2013	Transcript for 9-4-13 hearing	1.00	\$161.25	\$161.25
Expense	02/10/2014	Postage - Mail Notices of Appearance and Requests for Notice in State Court Actions and Notice of Bankruptcy in 956 Action	1.00	\$8.12	\$8.12
Expense	02/28/2014	Photocopies	1.00	\$39.00	\$39.00
Expense	03/21/2014	Postage - NEO (Granting Motion to Exceed Page Limit on Opposition to Motion for Relief from Stay)	1.00	\$13.92	\$13.92
Expense	03/21/2014	Service of Process	1.00	\$1,349.12	\$1,349.12
Expense	03/25/2014	Service of Process	1.00	\$421.94	\$421.94
Expense	03/25/2014	Filing Fee	1.00	\$298.00	\$298.00
Expense	04/22/2014	Service of Process - COS, Motion to Withdraw	1.00	\$902.00	\$902.00

Expense	04/29/2014	Service of Process - NEO Granting Motion to Withdraw	1.00	\$141.70	\$141.70
Expense	12/16/2014	Filing Fee - Notice of Appearance and Request for Notices	1.00	\$3.50	\$3.50
Expense	12/16/2014	Filing Fee - Notice of Appearance and Request for Notices	1.00	\$3.50	\$3.50
Expense	12/16/2014	Filing Fee - Notice of Appearance and Request for Notices	1.00	\$3.50	\$3.50
Expense	12/16/2014	Filing Fee - Notice of Appearance and Request for Notices	1.00	\$3.50	\$3.50
Expense	12/16/2014	Filing Fee - Notice of Appearance and Request for Notices	1.00	\$3.50	\$3.50
Expenses Subtotal				\$3,352.55	

Time Keeper	Position	Quantity	Rate	Total
Katherine Carstensen	Attorney	43.7	\$350.00	\$15,295.00
Katherine Carstensen	Attorney	57.3	\$0.00	\$0.00
Jacqueline Gilbert	Attorney	2.5	\$350.00	\$875.00
Jacqueline Gilbert	Attorney	2.7	\$0.00	\$0.00
Howard Kim	Attorney	4.8	\$350.00	\$1,680.00
Jesse Panoff	Attorney	4.3	\$0.00	\$0.00
Sarah Felts	Non-Attorney	0.1	\$150.00	\$15.00
Subtotal				\$21,217.55
Total				\$21,217.55

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
29	06/15/2014	\$21,217.55	\$0.00	\$21,217.55
Outstanding Balance				\$21,217.55
Total Amount Outstanding				\$21,217.55

Please make all amounts payable to: Howard Kim and Associates

Please pay within 30 days.

EXHIBIT 2



HOWARD KIM & ASSOCIATES
ATTORNEYS AT LAW

400 N. STEPHANIE ST., SUITE 160 · HENDERSON, NEVADA 89014

PHONE: (702) 485-3300 · FAX: (702) 485-3301

HOWARD KIM, ESQ.
E-MAIL: HOWARD@HKLAW.COM

February 14, 2013

David A. Rosenberg
US BANKRUPTCY TRUSTEE
5030 Paradise Rd., #B-215
Las Vegas, NV 89119

Re: Agreement for Legal Services: 09-31606, In re William Gayler

Dear Mr. Rosenberg:

We are pleased that you have asked Howard Kim & Association (the “Firm”) to serve as your counsel. This letter will confirm our discussion with you regarding your engagement of the Firm and will describe the basis on which the Firm will provide legal services to you. Accordingly, we submit for your approval the following provisions governing the Firm’s engagement. If you are in agreement, please sign the enclosed copy of this letter in the space provided below. If you have any questions about these provisions, or if you would like to discuss possible modifications, please do not hesitate to call. Again, we are pleased to have the opportunity to serve you.

1. *Client.*

Our client in this matter will be David A. Rosenberg, solely in his capacity as the court appointed Chapter 7 trustee in the bankruptcy case of **In re Gayler, 09-31603-MKN** (hereinafter the “Client”).

2. *Scope of Representation.*

We will be engaged to serve as the Client’s general counsel in the Bankruptcy Case 09-31603-MKN (the “Bankruptcy Case”) and perform the following services:

- (a) To advise the Client of his rights and obligations and performance of his duties during the administration of this bankruptcy case;
- (b) To represent the Client in all proceedings before this Court and any other court, which assumes jurisdiction of a matter related to or arising in this Bankruptcy Case;

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- (c) To assist the Client in the performance of his duties set forth in 11 U.S.C. §704;
- (d) To assist the Client in developing legal positions and strategies with respect to all facets of these proceedings; and
- (e) To review and counsel regarding any issues arising from potential conflicts between special counsel and the estate; and
- (f) To provide such other counsel and advice as the Client may require in connection with this bankruptcy case.

Notwithstanding Section 2(b), please be advised that this agreement DOES NOT include the Firm's representation of the Client in currently pending state court litigation involving the Debtor William Gayler or adversary cases in the Bankruptcy Case. Given the history and complexities of this debtor and case, the Firm simply cannot commit to such arrangement. Any such substantial expansion must be agreed to by us in writing.

3. *Term of Engagement.* Either the Client or the Firm may terminate the Engagement at any time, subject to the bankruptcy court's approval, for any reason by written notice, subject on our part to any applicable rules of professional conduct. In the event that we terminate the Engagement, we will take such steps as are reasonably practicable to protect your interests in the above matter and, if you so request, we will suggest to you possible successor counsel and provide said successor counsel with whatever papers you have provided to us.

4. *Conclusion of Representation; Retention and Disposition of Documents.* Unless previously terminated, the Firm's representation of the Client will terminate upon our sending you our final statement for services rendered in this matter. Following such termination, any otherwise nonpublic information you have supplied to us which is retained by us will be kept confidential in accordance with the applicable rules of professional conduct. At your request, your papers and property will be returned to you promptly upon receipt of payment for outstanding fees and costs. Our own files pertaining to the matter will be retained by the Firm. These firm files include, for example, firm administrative records, time and expense reports, personnel and staffing materials, credit and accounting records, and internal lawyers' work product such as drafts, notes, internal memoranda, and legal and factual research, including investigative reports, prepared by or for the internal use of lawyers. All such documents retained by the firm will be transferred to the person responsible for administering our records retention program. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to destroy or otherwise dispose of any such documents or other materials retained by us within a reasonable time after the termination of the engagement.

5. *Post-Engagement Matters.* You are engaging the Firm to provide legal services in connection with a specific Engagement. After completion of the Engagement, changes may occur in applicable laws or regulations that could have an impact upon your future rights and

liabilities. Unless you re-engage us after completion of the Engagement to provide additional advice on issues arising from the Engagement, the firm has no continuing obligation to advise you with respect to future legal developments.

6. *Fees and Expenses.* Our fees will be based on the billing rate for each attorney and legal assistant devoting time to this matter. Our billing rate for attorneys is currently **\$350.00 per hour**. Time devoted by legal assistants is charged at billing rate of **\$125.00 per hour**. These billing rates are subject to change from time to time.

We will include on our statements separate charges for performing services such as photocopying, messenger and delivery service, computerized research, travel, parking, long-distance telephone and telecopy, word processing, and search and filing fees. Fees and expenses of others (such as consultants, expert witnesses, appraisers, accountants, and/or local counsel) generally will not be paid by us, but will be billed directly to you.

As we have discussed, the fees and costs relating to this matter are not predictable. Accordingly, we have made no commitment to you concerning the maximum fees and costs that will be necessary to resolve or complete this matter. It is also expressly understood that payment of the firm's fees and costs is in no way contingent on the ultimate outcome of the matter.

7. *Retainer.* No retainer is needed. The Firm's representation shall commence upon your execution of this letter. We understand that all of our fees and costs must be approved by the bankruptcy court.

8. *Client Responsibilities.* You agree to cooperate fully with us and to provide promptly all information known or available to you relevant to our representation.

9. *Outside-Conflicts.* As we have discussed, you are aware that the Firm represents many other companies and individuals. It is possible that present or future clients will have disputes or transactions with the Client. Client agrees that the Firm may continue to represent or may undertake in the future to represent existing or new clients in any matter that is not substantially related to our work for you even if the interests of such clients in those other matters are directly adverse. We agree, however, that your prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instance where, as a result of our representation of you, we have obtained proprietary or other confidential information of a nonpublic nature, that, if known to such other client, could be used in any such other matter by such client to your material disadvantage. You should know that, in similar engagement letters with our other clients, we have asked for similar agreements to preserve our ability to represent you.

You have agreed that our representation of the Client in the matter described in paragraph 1 above does not give rise to an attorney client relationship between the Firm and any of the affiliates of the Client. You also have agreed that the Firm, during the course of its

representation of the Client, will not be given any confidential information regarding any of the affiliates of the Client. Accordingly, representation of the Client in this matter will not give rise to any conflict of interest in the event other clients of the Firm are adverse to any of the affiliates of the Client.

If you need to edit the terms of this letter, or wish to discuss any related issues, please contact us at your earliest convenience. However, if you agree that the foregoing accurately reflects our understanding, please sign and return the enclosed copy of this letter. Once again, we are pleased to have this opportunity to work with you. Please call me if you have any questions or comments during the course of our representation.

Sincerely,

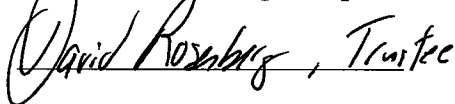


Howard C. Kim

HICK

Agreed and accepted:

David A. Rosenberg, Chapter 7 Trustee



Date: 2-14-13